

## CCRB INVESTIGATIVE RECOMMENDATION

|  |   |                           |  |   |                                 |
|--|---|---------------------------|--|---|---------------------------------|
| Investigator:<br>John Cody                       | Team:<br>Team # 6                                       | CCRB Case #:<br>200905542 | <input checked="" type="checkbox"/> Force              | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|  |   |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Tuesday, 04/07/2009 8:15 PM  | Location of Incident:<br>Pleasant Avenue & 120th Street | Precinct:<br>25           | 18 Mo. SOL<br>10/7/2010                                | EO SOL<br>10/7/2010                           |                                 |
| Date/Time CV Reported<br>Wed, 04/08/2009 2:41 PM | CV Reported At:<br>IAB                                  | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Mon, 04/13/2009 11:37 AM |   |                                 |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |

| Subject Officer(s)      | Shield | TaxID  | Command |
|-------------------------|--------|--------|---------|
| 1. POM Thomas Fabrizi   | 10183  | 938464 | PSA 5   |
| 2. POM Bladimir Falette | 26467  | 941013 | PSA 5   |

| Officer(s)             | Allegation  | Investigator Recommendation |
|------------------------|---|-----------------------------|
| A.POM Thomas Fabrizi   | Abuse: PO Thomas Fabrizi stopped § 87(2)(b)                             |                             |
| B.POM Thomas Fabrizi   | Force: PO Thomas Fabrizi used physical force against § 87(2)(b)         |                             |
| C.POM Bladimir Falette | Force: PO Bladimir Falette used physical force against § 87(2)(b)       |                             |
| D.POM Bladimir Falette | Discourtesy: PO Bladimir Falette spoke obscenely to § 87(2)(b)          |                             |
| E.POM Bladimir Falette | Abuse: PO Bladimir Falette threatened § 87(2)(b) with the use of force. |                             |

## Synopsis

On April 7, 2009, at approximately 8:15pm, § 87(2)(b) was walking on East 119<sup>th</sup> Street between 1<sup>st</sup> Avenue and Pleasant Avenue in Manhattan. § 87(2)(b) observed two plainclothes officers, identified as Officer Thomas Fabrizi and Officer Bladimir Falette, of PSA 5, who were traveling in an unmarked vehicle past § 87(2)(b). § 87(2)(b) began running in the opposite direction and the officers initiated pursuit of § 87(2)(b) (Allegation A). Officer Thomas Fabrizi allegedly tackled § 87(2)(b) outside 438 East 120<sup>th</sup> Street (Allegation B). Officer Fabrizi and Officer Falette allegedly began striking § 87(2)(b) in his back and on the back of his head (Allegations B and C). After § 87(2)(b) was placed in handcuffs, Officer Falette allegedly said, “You’re lucky there are cameras here or I would have fucking killed you” (Allegations D and E). § 87(2)(b) was charged with § 87(2)(b). He was transported to § 87(2)(b) for treatment.

§ 87(2)(g)

## Summary of Complaint

§ 87(2)(b)

On April 7, 2009, an anonymous male caller contacted 911 to report that the police were arresting a young man and started kicking and punching the man in the head once he was already down. Sgt. Sean Lynskey contacted IAB to inform them that Officer Thomas Fabrizi effected the arrest of § 87(2)(b). Internal Affairs indicated that the initial call to IAB was not recorded. On April 13, 2009, § 87(2)(b) filed a complaint with IAB § 87(2)(g).

On May 1, 2009, § 87(2)(b) was interviewed at the CCRB. On April 7, 2009, at approximately 8:15pm, § 87(2)(b) was walking on East 119<sup>th</sup> Street towards 1<sup>st</sup> Avenue in Manhattan. § 87(2)(b) was walking towards a grocery store on the corner of East 121<sup>st</sup> Street. § 87(2)(b) was wearing jeans, a black New York Yankees hat, and a black jacket. § 87(2)(b) had two cell phones on him and was using one to speak with his son when he observed an unmarked champagne (tan) colored vehicle drive past him. He recognized the occupants of the vehicle as plainclothes officers. The vehicle passed by and drove for approximately 20 feet, which suggested to § 87(2)(b) that there was nothing wrong. § 87(2)(b) then turned and began running around the corner up towards East 120<sup>th</sup> Street and Pleasant Avenue. When § 87(2)(b) was asked why he began running he said, “It’s a free country.” § 87(2)(b) said that hypothetically, he could have been running back to his house because he forgot something. § 87(2)(b) felt that because the officers passed him he was free to run away. § 87(2)(b) was asked again why he began running and he said, “I felt like running.”

§ 87(2)(b) got to the corner of East 120<sup>th</sup> Street and Pleasant Avenue and stopped when he observed the unmarked vehicle waiting for him. § 87(2)(b) described his arresting officer, PO1, as a white male, 5’6”, short black hair, stocky, in his 30’s, clean shaven, who § 87(2)(b) said was “Fabrizz” identified via investigation as Officer Thomas Fabrizi. He described PO2 as a Hispanic male, 6’0”, short black hair, in his late 20’s, clean shaven, skinny, wearing a hat, identified via investigation as Officer Bladimir Falette. Both officers got out of the vehicle and began chasing § 87(2)(b). § 87(2)(b) said he began running in circles on East 120<sup>th</sup> Street, with the officers chasing him for approximately five minutes.

§ 87(2)(b) realized he was going to be arrested, so he gave up and stopped in the street. § 87(2)(b) was in the middle of the street in front of 438 East 120<sup>th</sup> Street when Officer Fabrizi tackled him. Officer Fabrizi tackled § 87(2)(b) from the back and he fell to the ground face first, resulting in cuts to his head. Either two or three officers began hitting him on his back. However, § 87(2)(b) later said that by the time the other officers arrived on scene he was already in handcuffs and inside Officer Fabrizi’s and Officer Falette’s vehicle. § 87(2)(b) was not sure how long he was being hit, but it may have been two minutes. § 87(2)(b) was not trying to get away; he just kept yelling he had “asthma.” The officers were trying to push his arm around but § 87(2)(b) could not let them have his arm because he was not properly positioned to release it. § 87(2)(b) said he was punched in his back and the back of his head, nowhere else.

There were people outside but he did not know how many and did not know anyone who was present. § 87(2)(b) said there were two cameras outside the building he was tackled in front of. Once § 87(2)(b) was in handcuffs Officer Falette said, "You're lucky there are cameras here or I would have fucking killed you." § 87(2)(b) did not respond to him.

From the precinct, § 87(2)(b) was transported to § 87(2)(b) and received an MRI and CAT scan because of his head injuries. § 87(2)(b) said he was most concerned by the threat Officer Falette directed at him.

### **Results of Investigation**

#### ***Attempts to Obtain Video Footage and Witnesses***

On May 11, 2009, fieldwork was performed at the incident location. Two cameras were observed outside 438 East 21<sup>st</sup> Street (the building was apart of the New York City Housing Authority). Please-call letters were left in the lobby of the building requesting witnesses come forward and all the doors on the first through sixth floors with a window overlooking the street were knocked on. Every person who answered said they had not seen the incident. The undersigned investigator went to the Housing Authority's Management Office and spoke with the building manager, § 87(2)(b). § 87(2)(b) said that the police department was in control of all the video footage in the area.

On May 13, 2009, the PSA 5 Integrity Control Officer was contacted and he said that all footage for VIPER cameras are deleted after 30 days.

The complainant in this case could not be identified because he did not provide contact information and the call to IAB was not recorded.

#### ***Identification of Officers Interviewed***

§ 87(2)(g)

#### ***Subject Officer: PO Thomas Fabrizi***

Officer Thomas Fabrizi, of PSA 5, was interviewed at the CCRB on May 14, 2009. He is a white male, 5'8", 220 pounds with brown hair and brown eyes. On April 7, 2009, he was working in plainclothes from 5:30pm until 2:05am doing Anti-Crime patrol with Officer Bladimir Falette assigned to an unmarked vehicle. Officer Fabrizi's memo-book stated, "1 under F/O 438 East 120<sup>th</sup> Street; 2050: 62A @ house."

Officer Fabrizi prepared a stop-and-frisk report for this incident, which stated that § 87(2)(b) was suspected of criminal possession of a weapon and larceny. Under "circumstances that led to the stop" Officer Fabrizi marked "actions indicative of 'casing' victim or location," "furtive movements" and "actions indicative of engaging in violent crimes." Additional factors included "evasive, false or inconsistent responses to officer's question," and "changing directions at sight of officer/flight." Officer Fabrizi noted under physical force used as "hands on suspect." Under reasons for frisk he noted "furtive movements," "refusal to comply with officer's direction(s) leading to reasonable fear for safety" and "violent crime suspected."

Officer Fabrizi's arrest report for § 87(2)(b) states, "§ 87(2)(a) 160.50

"§ 87(2)(b) was charged with § 87(2)(a) 160.50

Officer Fabrizi's complaint report for this incident stated, "§ 87(2)(a) 160.50

Officer Fabrizi's medical treatment of prisoner form stated that § 87(2)(b) was complaining of dizziness and shortness of breath, resulting in his transport to the hospital for medical treatment.

Officer Fabrizi stated that while performing Anti-Crime patrol he was driving eastbound on East 119<sup>th</sup> Street between 1<sup>st</sup> Avenue and 2<sup>nd</sup> Avenue when he observed an individual later identified as § 87(2)(b). § 87(2)(b) was standing on the sidewalk next to a construction area on the north side of the street. Officer Fabrizi said during his CCRB interview that he and his partner were investigating a burglary pattern near the construction site and provided a print-out during his interview that indicated that in the 25<sup>th</sup> Precinct there was "Construction Burglary Site" with three complaint numbers provided, § 87(2)(b), for April 3, 2009 (Enc. ##).

Officer Fabrizi said he made eye contact with § 87(2)(b) as Officer Fabrizi drove towards him. § 87(2)(b) was approximately one car length away when he first observed § 87(2)(b). Officer Fabrizi described § 87(2)(b) as a light-skinned Hispanic male, short hair cut wearing a white t-shirt with jeans on. When Officer Fabrizi first noticed § 87(2)(b) they were parallel to each other. At that point, § 87(2)(b) moved his hand towards his waistband area and ducked down between two vehicles. Officer Fabrizi described § 87(2)(b)'s motion towards his waistband as a grasping motion, as if § 87(2)(b) was reaching for something. By the time Officer Fabrizi saw § 87(2)(b) duck between the two vehicles, § 87(2)(b) was a little bit behind the officers. Officer Fabrizi did not believe anyone else was on the street when he observed § 87(2)(b).

At that point, Officer Fabrizi stopped the vehicle and informed his partner about what he saw, saying, "I want to stop that guy, he just made a motion to his waistband." When both he and his partner exited the vehicle, Officer Fabrizi could not see § 87(2)(b). They removed their shields and walked towards § 87(2)(b) and did not run. As soon as they announced their presence, informing § 87(2)(b) they were "the police" § 87(2)(b) began running away from them.

Officer Fabrizi told his partner to get back in the vehicle. He and Officer Falette made two rights, one on the corner of East 119<sup>th</sup> Street and the next on the corner of East 120<sup>th</sup> Street, driving towards the corner of Pleasant Avenue. They observed § 87(2)(b) running towards their vehicle on the corner of East 120<sup>th</sup> Street and Pleasant Avenue. When they encountered him on the corner, he was very out of breath from running. Once Officer Fabrizi pulled up the car, § 87(2)(b) made a left on to East 120<sup>th</sup> Street from Pleasant Avenue running towards 1<sup>st</sup> Avenue. Officer Falette got out of the vehicle and began pursuing § 87(2)(b). Shortly thereafter, Officer Fabrizi also got out of the vehicle and began pursuing § 87(2)(b). Officer Fabrizi said from the point he saw § 87(2)(b) until the point he apprehended him, was 45 seconds to a minute and that the foot pursuit lasted 30-45 seconds.

As § 87(2)(b) ran on East 120<sup>th</sup> Street, he turned around and came running back towards Officer Fabrizi. Officer Fabrizi said that he remained stationary in the middle of the street as § 87(2)(b) ran towards him. Officer Fabrizi tried to brace for the hit as § 87(2)(b) ran into him with his head down, hitting Officer Fabrizi's chest. They both fell to the ground. Officer Fabrizi could not recall how he went to the ground, whether he landed on his back or his chest. § 87(2)(b) was told repeatedly to give his hands.

§ 87(2)(b) had one hand on his waist while Officer Fabrizi was gripping the other hand. § 87(2)(b) was lying on his stomach with his right hand tucked underneath his person. § 87(2)(b) was trying to wriggle his hand out of Officer Fabrizi's grip. Shortly after they went to the ground, Officer Falette aided Officer Fabrizi in effecting this arrest. Officer Fabrizi described § 87(2)(b)'s struggling as "violently moving." Officer Fabrizi could not get a hold of § 87(2)(b)'s right hand and § 87(2)(b) was kicking his legs out. Officer Fabrizi said he was hit on his left cheek soon after he fell to the ground (causing a scratch) but did not know if § 87(2)(b) kicked him or punched him.

Finally the officers were able to pry § 87(2)(b)'s hand from underneath him and handcuff him. Officer Fabrizi was asked numerous times if he ever punched § 87(2)(b) but he repeated that there was a struggle and then said that § 87(2)(b)'s face was on the ground. Officer Fabrizi also said that his own face was on the ground as well. Officer Fabrizi said he did not swing at § 87(2)(b) and that the struggle consisted of them rolling around on the floor, nothing more. Officer Fabrizi did not recall if Officer Falette ever punched or struck § 87(2)(b) in any manner. Officer Fabrizi said a crowd formed after the struggle began and he heard a lot of yelling from the Wagner Housing complex.

After he was handcuffed, the officers searched him to see if he had anything on him but he did not. Officer Fabrizi then sent his partner back towards the construction site to perform a canvass but they did not find anything.

§ 87(2)(b) was then placed in the back of their unmarked car and he complained of shortness of breath because he had asthma. § 87(2)(b) had a scratch to his face but Officer Fabrizi could not recall exactly where on his face. Officer Fabrizi did not have any conversation with § 87(2)(b). Neither he nor his partner ever said, "You're lucky there's a camera here or I would have fucking killed you." Officer Fabrizi said he and his partner never used profanity and never threatened him with any force. They had an ambulance come to the precinct and § 87(2)(b) was taken to § 87(2)(b). § 87(2)(b) was charged with § 87(2)(a) 160.50.

Officer Fabrizi supplied a handwritten stop-and-frisk report during his interview and said he checked "actions indicative of casing location," because § 87(2)(b) was someone in an area with no official purpose for being there. Officer Fabrizi said he believed § 87(2)(b) was involved in a burglary pattern and stated that § 87(2)(b) reached towards his waistband causing Officer Fabrizi to fear for his

safety that a weapon could be involved. Officer Fabrizi did not go Line of Duty and his injury was never treated.

***Subject Officer: PO Bladimir Falette***

On May 22, 2009, 10:54am, Officer Bladimir Falette, of PSA 5, was interviewed at the CCRB. He is a Hispanic male, 6'0", 155 pounds with blue eyes and brown hair. On April 7, 2009, he was working in plainclothes from 5:30pm until 2:05am doing Anti-Crime patrol with Officer Fabrizi in an unmarked vehicle. Officer Falette did not have any memo-book entries regarding this incident.

Officer Falette stated that he and his partner were driving on East 119<sup>th</sup> Street headed westbound from Pleasant Avenue towards 1<sup>st</sup> Avenue. Officer Falette and his partner were patrolling the area for a burglary pattern. Officer Fabrizi noticed an individual, identified as § 87(2)(b) who was standing near a construction site. Officer Falette described § 87(2)(b) as a light skinned Hispanic male with a Caesar cut and tattoos. § 87(2)(b) was wearing a white t-shirt and white sneakers. § 87(2)(b) was on Officer Falette's side of the vehicle, facing the direction of 1<sup>st</sup> Avenue. Officer Falette could not recall anyone else being on the street at that time. Officer Fabrizi mentioned to Officer Falette, "This guy is kind of hanging out by the construction site, so lets check him out." Officer Falette said that they had not previously seen § 87(2)(b) up until that point. Officer Falette did not know how Officer Fabrizi knew § 87(2)(b) was hanging out in the area.

The officers stopped the vehicle and identified themselves as police officers to § 87(2)(b). Officer Falette stated that once they stopped their vehicle § 87(2)(b) ducked between two vehicles. Later in the interview, he stated that it was after they announced themselves as police officers that § 87(2)(b) ducked between the two cars. Officer Falette responded to § 87(2)(b)'s action by standing where he was because it happened very fast. After § 87(2)(b) ducked between the two cars, he began running from the officers towards Pleasant Avenue. Officer Falette and Officer Fabrizi drove towards East 120<sup>th</sup> Street and 1<sup>st</sup> Avenue and then made a right turn on to East 120<sup>th</sup> Street. While they were driving, Officer Fabrizi mentioned something along the lines of, "I think he has a gun," which led Officer Falette to believe he possibly had a gun.

Once the officers reached the corner of East 120<sup>th</sup> Street and Pleasant Avenue, they observed § 87(2)(b) running. Officer Falette got out of the vehicle and began running after § 87(2)(b) chasing him for 30-45 seconds. § 87(2)(b) was running on East 120<sup>th</sup> Street towards 1<sup>st</sup> Avenue. About half way on the block § 87(2)(b) ran across the street and doubled back towards Pleasant Avenue. At that time, § 87(2)(b) was near the Wagner Houses. § 87(2)(b) stopped near a fence and continued running. Officer Falette is aware that § 87(2)(b) ran into his partner but he did not actually see that occur. Officer Falette said that his radio fell on to the ground and that he was out of breath. When he reached down to pick up his radio, both his partner and § 87(2)(b) were on the ground struggling.

Officer Falette approached and for 10-15 seconds tried to pry § 87(2)(b)'s right hand out from under his waistband area. Officer Fabrizi was positioned on § 87(2)(b)'s left side and Officer Falette was positioned on § 87(2)(b)'s right side. Officer Falette did not know if § 87(2)(b) was struck in any manner and did not know if Officer Fabrizi was struck by § 87(2)(b) because they both had their backs to Officer Falette as he approached. However, Officer Falette added later in the interview that Officer Fabrizi was struck by § 87(2)(b) and it consisted of § 87(2)(b)'s left hand being near Officer Fabrizi's face. Officer Fabrizi kept telling § 87(2)(b) to give his hands. Officer Falette became scared because he could not pry § 87(2)(b)'s hands from his waistband area. During that time, § 87(2)(b) tried to wiggle his way out of his jacket. Officer Falette said he was very tired at that point and kept telling his partner he could not pry § 87(2)(b)'s hands from his belt area. Officer Falette said that § 87(2)(b) had his head pressed towards the ground and was using his head as "leverage" to try and wriggle out of the light jacket he was wearing. Officer Falette said the struggle lasted so long because § 87(2)(b)'s resistance and attempts to get out of his jacket. Officer Falette said he never saw anything like that.

Officer Falette gave a knee blow to § 87(2)(b)'s hand approximately two times to get § 87(2)(b) to release his hand. Officer Falette never struck him in any other manner. After the officers managed to get both of § 87(2)(b)'s hands and place him in handcuffs, Officer Falette observed that Officer Fabrizi had a red mark on his face. Officer Falette believed that Officer Fabrizi sustained that injury from § 87(2)(b) striking him. Officer Falette did not see any injuries on § 87(2)(b)'s person once he was in handcuffs. Officer Falette did not have any conversation with § 87(2)(b) at that time. Officer Falette and his partner never said, "You're lucky there's fucking cameras here or I would have killed you." Officer Falette did not recall ever threatening § 87(2)(b) or using any profanity. Officer Falette confirmed that

there are cameras near the Wagner Houses. Officer Falette then said he was out of breath and he could barely speak and could not recall himself or anyone else talking. Officer Falette did not recall any other officers arriving on scene and that it was only he and Officer Fabrizi involved in the physical interaction. Officer Falette did not recall any civilians in the area. Officer Falette did not know what § 87(2)(b) was arrested for and a canvass did not produce any contraband.

### ***Medical Records***

The *Ambulance Call Report* states that § 87(2)(b) complained that his head was “throbbing.” The report indicates that § 87(2)(b) had multiple contusions on his forehead. He denied neck or back pain. On § 87(2)(b), § 87(2)(b) was transported to § 87(2)(b). He was under police custody and complained of abrasions to his forehead. § 87(2)(b) had abrasions to his forehead and left knuckles. A CT scan performed revealed no evidence of fracture or trauma to § 87(2)(b)’s head.

### ***Police Documentation***

The SPRINT index is enclosed (Enc. ##). An entry on the NYPD Complaint Web noted there was “Construction Burglary Site” in the 25<sup>th</sup> Precinct with three complaint numbers provided, § 87(2)(b), for April 3, 2009. The complaint noted, “On two occasions perp(s) entered construction site when it was closed, broke into trucks and removed power tools. The case was assigned to Det. David Feliciano of the 25<sup>th</sup> Precinct Detective Squad. Det. Feliciano indicated that the burglary happened at 600 East 125<sup>th</sup> Street in Manhattan, on Randall’s Island.

### ***Criminal Conviction History***

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

### ***CCRB History***

§ 87(2)(b) has no previous complaints on record. Neither officer has any substantiated cases on record. Both officers have been with the NYPD for three years.

## **Conclusions and Recommendations**

### ***Officer Identification***

Officer Fabrizi made the initial observation of § 87(2)(b) and filled out the stop-and-frisk report for this incident. Additionally, both officers confirmed that it was Officer Fabrizi’s decision to stop § 87(2)(b). § 87(2)(b) § 87(2)(g)

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

### ***Undisputed Facts***

On April 7, 2009, § 87(2)(b) was walking on East 119<sup>th</sup> Street when Officer Fabrizi and Officer Falette drove past him. § 87(2)(b) began running in the opposite direction from the officers until he reached the corner of East 120<sup>th</sup> Street and Pleasant Avenue. The officers pursued him in their vehicle and eventually began pursuing him on foot. § 87(2)(b) and Officer Fabrizi went to the ground and eventually Officer Falette aided in effecting § 87(2)(b)’s arrest. Officer Falette struck § 87(2)(b) a number of times with his knee. § 87(2)(b) was handcuffed and transported to the precinct. From there, he was transported to § 87(2)(b).

### ***Disputed Facts***

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(g)

### *Assessment of Evidence*

There is no dispute that § 87(2)(b) ran the opposite direction from Officer Fabrizi and Officer Falette after observing them. § 87(2)(g)

Officer Fabrizi stated that he observed § 87(2)(b) make a motion towards his waistband, describing it as a downward motion with § 87(2)(b)'s hands. Officer Falette made no mention of observing any such motion, but said that Officer Fabrizi was the officer who first observed § 87(2)(b)

Officer Fabrizi said that § 87(2)(b) upon making eye contact with the officers, ducked down between two vehicles, prompting him to stop the vehicle. Officer Falette was inconsistent concerning when § 87(2)(b) ducked down between two vehicles, whether it was before the officers got out of their vehicle and announced themselves as police officers or after. § 87(2)(g)

The only criminality the officers mentioned was a burglary pattern near a construction site, thus the grounds for the stop. On May 27, 2009, Det. Feliciano of the 25<sup>th</sup> Precinct Detective Squad, the detective assigned to the burglary pattern alluded to by Officer Fabrizi, was contacted. He said that the burglary pattern cited in the report occurred at a Randall's Island construction site in the vicinity of 600 East 125<sup>th</sup> Street, which is a significant distance from East 119<sup>th</sup> Street and Pleasant Avenue. § 87(2)(g)

§ 87(2)(b) did not offer much of an explanation as to why he began running away from the officers other than he "felt" like running. § 87(2)(g)

§ 87(2)(b) stated that the abrasions to his forehead § 87(2)(g) were sustained from the fall he took when Officer Fabrizi tackled him. However, medical records indicate that § 87(2)(b) suffered abrasions on the left side of his forehead and the right side of his forehead, with no real abrasions in the middle. § 87(2)(g)

Officer Fabrizi § 87(2)(g) What he presents is that from a distance § 87(2)(b) stopped, turned, and ran towards him and that his only response was to brace for impact. § 87(2)(g)

Concerning the force used on § 87(2)(b) once he was on the ground, § 87(2)(b) said he was hit numerous times on his back and the back of his head. Officer Fabrizi denied ever striking § 87(2)(b) but Officer Falette said he struck § 87(2)(b) with knee blows approximately two times on § 87(2)(b)'s hand, in order to release it. § 87(2)(g)

§ 87(2)(g) Officer Falette § 87(2)(g) saying that § 87(2)(b)'s left hand was "near" Officer Fabrizi's face, but could not specify how § 87(2)(b) was actually striking Officer Fabrizi. § 87(2)(g)

Once § 87(2)(b) was handcuffed, he alleged that Officer Falette said, "You're lucky there are cameras here or I would have fucking killed you." § 87(2)(b) said the crux of his complaint rested on this threat. Officer Falette said he could not recall using any profanity or making any threats to § 87(2)(b). He then said he could not recall any conversation because he was so out of breath. § 87(2)(g) there were actually cameras in the area, which Officer Falette confirmed. § 87(2)(g)

***Allegation A) Abuse of Authority: PO Thomas Fabrizi stopped § 87(2)(b)***

Officer Fabrizi indicated that he observed § 87(2)(b) in the vicinity of a burglary pattern location making gestures towards his waistband. In addition, when the officers approached from their vehicle, § 87(2)(b) ran from them. § 87(2)(g) Barry Kamins writes in New York Search and Seizure that flight alone cannot justify a reasonable suspicion but under certain circumstances, flight can be considered an escalating factor that may authorize a police officer to stop a suspect by pursuing him. He further writes that if an officer approaches for a request for information "a citizen's flight will therefore *not* elevate the encounter to a point at which pursuit by the police would be justified." Officer Fabrizi indicated that he felt § 87(2)(b) was involved in a burglary because of his proximity to a construction site. § 87(2)(g) Det. Feliciano (the detective assigned to the burglary pattern) said that the construction site in question was on Randall's Island, miles from this incident location.

§ 87(2)(g)

***Allegation B) Force: PO Thomas Fabrizi used physical force against § 87(2)(b)***

***Allegation C) Force: PO Bladimir Falette used physical force against § 87(2)(b)***

It is unclear whether § 87(2)(b) charged at Officer Fabrizi or whether § 87(2)(b) had given up and stopped running. § 87(2)(b) said he was running when he gave up. At that point, Officer Fabrizi allegedly tackled § 87(2)(b) causing him to fall to the ground and hit his head. Once on the ground, Officer Fabrizi and Officer Falette allegedly began striking § 87(2)(b) on his back and in the back of his head. Officer Fabrizi and Officer Falette both stated that § 87(2)(b) charged Officer Fabrizi, knocking him to the ground. § 87(2)(g)



§ 87(2)(g) [REDACTED]  
[REDACTED]  
§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

*Allegation D) Discourtesy: PO Bladimir Falette spoke obscenely to § 87(2)(b) [REDACTED]*  
*Allegation E) Abuse of Authority: PO Bladimir Falette threatened § 87(2)(b) [REDACTED] with the use of force.*

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

|               |       |
|---------------|-------|
| Investigator: | Date: |
| Supervisor:   | Date: |
| Reviewed by:  | Date: |
| Reviewed by:  | Date: |